

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 10 2012

D. MARK JONES, CLERK

BY

DEPUTY CLERK

FILED
U.S. DISTRICT COURT
2012 AUG 9 4:05
DISTRICT OF UTAH**ANDERSON & KARRENBERG**

Thomas R. Karrenberg (# 3726)

tkarrenberg@aklawfirm.com

Samantha J. Slark (# 10774)

sslark@aklawfirm.com

Richard A. Kaplan (# 13480)

rkaplan@aklawfirm.com

50 West Broadway, Suite 700

Salt Lake City, UT 84101-2035

Telephone: (801) 534-1700

Facsimile: (801) 364-7697

KIRTON | McCONKIE

Ryan B. Frazier (# 9007)

rfrazier@kmclaw.com

Brent A. Andrews (# 10035)

bandrewsen@kmclaw.com

1800 Eagle Gate Tower

60 E. South Temple

Salt Lake City, UT 84111

Telephone: (801) 328-3600

Facsimile: (801) 212-2087

*Attorneys for Plaintiff Beacon Tower Development Technologies, LLC*IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF UTAH, CENTRAL DIVISIONBEACON TOWER DEVELOPMENT
TECHNOLOGIES, LLC, a Utah limited liability
company,

Plaintiff,

vs.

GREAT BASIN TECHNOLOGIES, LLC, a
Utah limited liability company, RICHARD R.
MACKERELL, an individual, GARY M.
RENLUND, an individual, TRIOX
TECHNOLOGIES, INC., a Utah corporation,
TTI ASSOCIATES, a Utah limited liability
company,

Defendants.

STIPULATED JUDGMENT

Civil No. 2:10-CV-00099 BSJ

Judge Bruce S. Jenkins

Based on the Stipulation Motion for Entry of Judgment of the plaintiff Beacon Tower Development Technologies, LLC ("Beacon Tower") and defendants Great Basin Technologies, LLC ("GBT"), Richard Mackerell, Gary Mr. Renlund, and Triox Technologies, Inc. (hereinafter

referred to as the “Defendants”), and good cause appearing, the Court hereby ORDERS,

ADJUDGES AND DECREES as follows:

- (1) The Parties’ Stipulation and Joint Motion for Entry of Judgment is GRANTED;
- (2) Beacon Tower’s Motion for Leave to File Second Amended Complaint is GRANTED TO THE EXTENT THAT its proposed Alter Ego claim against TTI Associates, LLC (“TTIA”) is made part of this lawsuit (hereinafter, the “Alter Ego Claim”),
- (3) The Court makes the following findings concerning the *Alter Ego Claim* based on the stipulation of the parties:
 - a. At all material times, there was such unity of interest and ownership of GBT and TTIA that the separate of GBT and TTIA do not exist;
 - b. At all material times, GBT and TTIA were the alter egos of each other;
 - c. The Court will pierce and disregard the corporate veil of TTIA and declare TTIA the alter ego of GBT; and
 - d. The duties and liabilities of GBT are also the duties and liabilities of TTIA;
- (4) With respect to the *Seventh Cause of Action, Declaratory Judgment and Order Establishing Beacon Tower’s Rights to Foreclose on Personal Property* against GBT, the Court rules as follows based on the stipulation of the parties:
 - a. Pursuant to the an Order of this Court, Beacon Tower took possession of the equipment that was located in the Winchester Property, located at 418 West

Winchester Drive, Murray, Utah 84107 pursuant to that Order (the “Replevin Collateral”);

- b. Beacon Tower is hereby authorized to sell the Replevin Collateral without deducting the amount of such sale from the Stipulated Judgment; and
 - c. The parties have stipulated to a credit of \$460,000 as the value of the Replevin Collateral (“Stipulated Replevin Collateral Credit”) irrespective of the actual result of Beacon Tower’s sale thereof, and the Stipulated Replevin Collateral Credit shall be deducted from the amounts that GBT and TTIA owe to Beacon Tower under this Stipulated Judgment as reflected in paragraph 5(i) below;
- (5) Beacon Tower is hereby awarded judgment against GBT and TTIA, jointly and severally, on the *Sixth Cause of Action, Breach of Contract*, in the following amounts:

- a. Unpaid principal under the Notes \$1,580,000.00
- b. 8% Interest on March 28, 2008 loan of \$700,000 \$56,460.27
(March 28, 2008 until March 31, 2009)
- c. 8% Interest on July 28, 2008 loan of \$300,000 \$16,175.34
(July 28, 2008 until March 31, 2009)
- d. 8% Interest on September 18, 2008 loan of \$200,000 \$8,504.11
(September 18, 2008 until March 31, 2009)
- e. 8% Interest on December 22, 2008 loan of \$450,000 \$9,764.38
(July 28, 2008 until March 31, 2009)
- f. 18% Interest on total loan of \$1,650,000¹ \$193,660.27
(April 1, 2009 until November 25, 2009)

¹ The interest rate increased to 18% after default under the terms of the Notes.

g.	18% Interest on total loan of \$1,580,000 ² (November 26, 2009 until July 30, 2012)	\$761,256.99
h.	Credit for Amount Paid at Heritagecrest Property Foreclosure Sale that Exceeded the Amount of Paid to Home Savings Bank (which amount Beacon Tower received) ³	<\$48,000.00>
i.	Stipulated Replevin Collateral Credit	<\$460,000.00>
j.	Attorney Fees:	\$411,150.00
k.	Litigation Costs:	<u>\$36,070.75</u>

Total Judgment Awarded: \$2,565,042.11

- (6) The Total Judgment Awarded in paragraph 5 shall continue accrue interest at the rate of 18% per annum;
- (7) With respect to the *Eighth Cause of Action, Scope and Term of License* and the *Ninth Cause of Action, Breach of Contract – Failure to Provide License*, which are both against GBT, the Court rules as follows:
- a. Beacon Tower and GBT agreed that GBT would provide a license for the “development, marketing and distribution of products using” the certain technology relating to electric generation and nuclear magnetic spin electric generation technology “in the following sectors: (1) medical and health care; (2) motor sports, including but not limited to motorcycles, motor bikes, ATV’s, recreational watercraft, etc.; and (3) portable and emergency lighting, including

² Beacon Tower purchased a 1% ownership interest in GBT for \$70,000 on November 25, 2009. This amount was paid by reducing the overall principal amount that GBT owed to Beacon Tower.

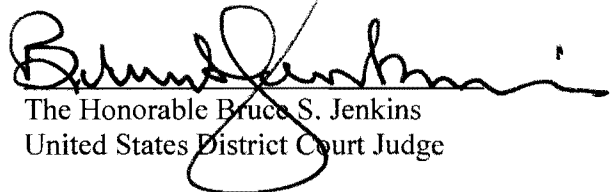
³ Home Savings Bank held a first-position security interest, and Beacon Tower held the second position.

but not limited to flashlights, headlamps, lanterns, back-up and emergency lighting applications, etc.” (the “License”); and

- b. GBT and TTIA will specifically perform and honor the contractual obligation to provide the License in accordance with the terms of the Notes without any other limitations, obligations, or conditions;
- (8) The *First Cause of Action*, securities fraud claims under Section 10(b) and Rule 10b-5, is dismissed with prejudice;
- (9) The *Fifth Cause of Action, Judicial Foreclosure of Trust Deed*, has been rendered moot and is therefore dismissed with prejudice;
- (10) All of remaining claims are hereby dismissed without prejudice, which are the following claims:
 - (i) *Second Cause of Action, Utah Uniform Securities Act*;
 - (ii) *Third Cause of Action, Fraudulent Misrepresentation*; and
 - (iii) *Fourth Cause of Action, Negligent Misrepresentation*.

DATED this th 9 day of August, 2012.

BY THE COURT


The Honorable Bruce S. Jenkins
United States District Court Judge

APPROVED AS TO FORM AND CONTENT

KIRTON | McCONKIE

/s/ Ryan B. Frazier

Ryan B. Frazier

Brent A. Andrewsen

Co-counsel for Plaintiff Beacon Tower Development Technologies, Inc.

ANDERSON & KARRENBURG

/s/ Richard A. Kaplan

Thomas R. Karrenberg

Richard A. Kaplan

Samantha J. Slark

Co-counsel for Plaintiff Beacon Tower Development Technologies, Inc.

/s/ Bruce L. Nelson

Bruce L. Nelson

Co-counsel for Defendants Great Basin Technologies, LLC,

Richard R. Mackerell, Gary M. Renlund, Triox Technologies, Inc.,
and TTI Associates, LLC

/s/ L. David Griffin

L. David Griffin

Co-counsel for Defendants Great Basin Technologies, LLC,

Richard R. Mackerell, Gary M. Renlund, Triox Technologies, Inc.,
and TTI Associates, LLC

CERTIFICATE OF SERVICE

I certify that on the 3rd day of August, 2012, a true and correct copy of the foregoing **STIPULATED JUDGMENT** was served by U.S. Mail, postage prepaid, to the following in the manner indicated below:

Bruce L. Nelson
4547 Stoneybrook Way
Lehi, UT 84043

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile
(X) E-mail

L. David Griffin
6102 Dry Creek Road
Highland, UT 84003
Ld.grif@gmail.com

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile
(X) E-mail

/s/ Andrea Armstrong